



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 10, 1994

Ms. Laura S. Groce
Law Offices of Henslee, Ryan & Groce
Great Hills Plaza
9600 Great Hills Trail, Suite 300 West
Austin, Texas 78759-6303

OR94-213

Dear Ms. Groce:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 24031.

The Round Rock Independent School District (the "district") received an open records request for "all Round Rock ISD school transfers -- specifically in district transfers." This office understands the request as one for copies of students' requests for transfers within the district. You contend that the requested records are made confidential by the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.

Section 552.026 of the Government Code provides as follows:

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

The Family Educational Rights and Privacy Act of 1974 ("FERPA") provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information) contained in a student's education records to anyone but certain numerated

federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1). "Education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. *Id.* § 1232g(a)(4)(A).

For purposes of FERPA, the student transfer requests constitute "education records" and the district therefore must withhold these records from the general public to the extent that they contain information about identifiable students. However, information must be withheld from required public disclosure pursuant to section 552.026 only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978); *see also Kneeland v. National Collegiate Athletic Ass'n*, 650 F. Supp. 1076, 1090 (W.D. Tex. 1986) (educational records are public where personally identifiable information is deleted), *rev'd on other grounds*, 850 F.2d 224 (5th Cir. 1988).

You have not submitted copies of the requested documents (or a representative sample thereof) to this office for review. In a telephone conversation of January 20, 1994, a member of our staff informed you that this office must review, at a minimum, a representative sample of the requested records in order to render a ruling on this open records request. We have attempted to contact you numerous times since the date of your January 23, 1994 letter to this office to remind you of your obligation to submit copies of the records, but our calls have not been returned. When a governmental body refuses to submit to this office copies of requested information, the information is presumed to be public. *See* Open Records Decision No. 197 (1978) at 1-2. This presumption can be overcome only by a compelling demonstration that the information should not be released, such as where the information is made confidential by other law. Open Records Decision No. 150 (1977) at 2.

Clearly, it is impossible for this office to determine the extent to which the requested records contain otherwise public information once the protected information that tends to identify particular students has been redacted. The district must redact from the requested records all student names, addresses, telephone numbers, social security numbers, and parents' names. Further, the district must withhold all transfer requests that are in a student's own handwriting. *See* Open Records Decision No. 224 (1979) (handwritten documents make identity of writer "easily traceable"). However, the district must release all remaining information in the transfer requests unless you demonstrate to this office how the information would reveal the identity of a particular student.¹

¹We note that the redaction of information tending to identify students and their parents will also protect any privacy interests those individuals may have in the contents of these records.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Rebecca L. Payne". The signature is fluid and cursive, with the first name "Rebecca" being more prominent.

Rebecca L. Payne
Section Chief
Open Government Section

RLP/RWP/rho

Ref.: ID# 24031
ID# 24229

cc: Ms. Dorothy Bounds
P.O. Box 618
Round Rock, Texas 78680